

Case No. C 04-4276 EDL

1 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that at 9:00 a.m. on July 8, 2005, in Courtroom 17 of the
3 United States District Court for the Northern District of California, located at 450 Golden Gate
4 Avenue, San Francisco, California, 94102, or as soon thereafter as the matter can be heard,
5 defendants Wells Fargo Bank, N.A. ("Wells Fargo"), Bank of America, N.A. ("B of A"), and
6 U.S. Bank National Association ("USB") (collectively "Defendant Banks") will, and hereby do,
7 move to dismiss the First Amended Class Action Antitrust Complaint in this action.

8 The motion seeks dismissal of the complaint with prejudice under Federal Rule of Civil
9 Procedure 12(b)(6) for failure to state a claim on which relief can be granted. Plaintiffs' claims
10 under Section 1 of the Sherman Act fail because plaintiffs have not alleged any facts which
11 would support individual liability on the part of Defendant Banks for participating in an unlawful
12 contract, combination or conspiracy in restraint of trade. Plaintiffs' "claim" under Section 16 of
13 the Clayton Act should also be dismissed because Plaintiffs do not and cannot seek relief as
14 against the moving parties.

15 This motion is based on this Notice of Motion and Motion, the concurrently filed
16 Memorandum of Points and Authorities, and all evidence and argument as may be presented to
17 the Court at the hearing on this motion.

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WELLS FARGO BANK, N.A., BANK OF AMERICA, N.A., U.S. BANK NATIONAL ASSOCIATION'S
NOTICE OF MOTION AND MOTION TO DISMISS

Sheri L. Kendall, d/b/a Bali Hair Salon vs. Visa U.S.A.

Case No. C 04-4276 EDL

1 Dated: June 3, 2005

2 FOLEY & LARDNER LLP

3 By *s/ Eileen R. Ridley*

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